APPENDIX VI

[Vide item III at page 138 supra.]

L.A. BILL No. 21 OF 1938.

(As passed by the Assembly)

A Bill to remove the disabilities of certain classes of Hindus in regard to entry into temples in the district of Malabar.

WHEREAS the disabilities imposed by custom and usage on certain classes of Hindus in respect of their entry into, and offering worship in, Hindu temples should be removed,

AND WHEREAS, however, doubts have been entertained whether the trustees of such temples have the power in law to make any such innovation in practice,

AND WHEREAS it is just and expedient that these doubts should be removed and the trustees should be empowered by law to extend to all classes of Hindus the right of entry into, and worship in, temples if the Hindus in the locality who are now entitled to such entry are generally in favour of such extension,

AND WHEREAS, further, such extension of rights and privileges in Hindu temples to classes hitherto excluded has been recently ordered and peacefully brought into effect in one part of Kerala, and by reason of common traditions and identity of language, customs, forms of worship and the like, the removal of the disabilities aforesaid has been not only more insistently demanded, but also made more easy of accomplishment in the first instance, in another part of Kerala,

It is hereby enacted as follows:—

Short title and extent. **1.** (1) This Act may be called the Malabar Temple Entry Act, 1938.

(2) It extends to the whole of the District of Malabar.

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context—

(1) 'Board' means the Board of Commissioners constituted under section 10 of the Madras Hindu Religious Endowments Act, 1926, or any other (Madras Act II of 1927.)

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authority in which the powers and functions of the said Board in respect of a temple may for the time being be vested;

(2) 'excluded class' means any caste or class of the Hindu community which, by reason of any established usage or custom, is excluded from entering the temple concerned, or which, though admitted into the precincts of the temple, is not allowed entry into any part of the temple where the bulk of the worshippers are allowed;

(3) 'prescribed' means prescribed by rules made under section 9;

(4) 'temple' means a place, by whatever designation known, which is used as a place of public worship by the Hindu community generally except excluded classes and which was at any time assessed to contribution under section 69 of the Madras Hindu Religious Endowments Act, 1926, on an annual income of not less than Rs. 5,000; and in any context with reference to entry shall mean every part of the temple which is open to the bulk of the worshippers:

[M]adras Act of 1927.

Provided that any temple which has been before the 1st of April 1938 declared by final decree or order of a competent court to be private property or accepted by the Board to be private property shall not be a temple for the purposes of this Act:

Provided further that any temple in respect of which a question as to whether it is private property has been already raised in a suit in a court of law or in an application before the Board registered before the 1st of April 1938, the temple shall not be deemed to be a temple for the purposes of this Act until the final decision in such a proceeding, and thereafter, it shall not be, or shall be, a temple for the said purposes according as the final decision declares or accepts the temple to be private property or not.

(5) 'trustee' means a person by whatever designation known, in whom the administration of a temple is vested, whether in a hereditary capacity or not;

(6) 'voters' means the Hindu voters, other than those belonging to excluded classes, on the electoral

roll of the Madras Legislative Assembly for the time being in force relating to the general constituency of the revenue taluk in which the temple is situated including the municipal areas therein, who are included in a list prepared under the rules made under section 9; and

(7) 'worship' means such religious service as the bulk of the worshippers participate in, in accordance with the provisions of such regulations as may be made by the trustees for the maintenance of order and cleanliness and the due observance of the religious rites and ceremonies performed in the temple.

Requisition to trustees to throw open temples to excluded classes.

3. (1) On receipt by the trustees of a temple of a requisition in writing signed by not less than fifty voters requesting them to throw open the temple to persons belonging to excluded classes, the trustees shall forward the requisition to the Provincial Government and the Provincial Government shall thereupon direct the trustees to refer the matter to the voters and ascertain their opinion by votes taken by the prescribed method:

Provided that if the Provincial Government are of opinion that the requisition is not made for the furtherance of the objects of this Act, they may direct that no action be taken thereon.

(2) Where on such reference the result is found by a majority of the votes to be in favour of throwing the temple open to persons belonging to excluded classes, the trustees shall publish in the prescribed manner an order to the effect that the temple shall thereafter be open to persons belonging to excluded classes.

Power of trustees to issue notice of proposal to throw open temples to excluded classes.

4. (1) Notwithstanding any law, custom or usage to the contrary, it shall be open to the trustees of a temple to publish in the prescribed manner a notice to the effect that they propose to make an order throwing the temple open to persons belonging to excluded classes. Such notice shall also state that objections to the proposal may be preferred to the trustees at any time within one month from the date of the publication of the notice.

(2) If within one month from the date of the publication of the notice referred to in sub-section (1),

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written objections to the proposal are preferred by not less than fifty voters, the same shall be forwarded to the Provincial Government, and thereafter, on a direction from them, the question whether the temple shall or shall not be thrown open to persons belonging to excluded classes shall be referred for the opinion of the voters as if a requisition had been received under sub-section (1) of section 3.

(3) If in any case where action under sub-section (1) is taken by the trustees, no objection as specified in sub-section (2) is preferred, or if on a reference made under sub-section (2), the result is found to be in favour of throwing the temple open to persons belonging to excluded classes, the trustees shall publish in the prescribed manner an order to the effect that the temple shall thereafter be open to persons belonging to excluded classes.

5. The Provincial Government may, at any time, before the results of any reference to the voters are announced, order that all further action in respect of such reference shall be suspended and upon such order all previous proceedings relating thereto shall be deemed to have been cancelled.

Power of trustees to throw open temples to excluded classes without reference to voters in certain cases.

6. Where on a reference made to the voters under sub-section (1) of section 3 or sub-section (2) of section 4 the result is found to be in favour of throwing a temple open to persons belonging to excluded classes, the trustees of any other temple situated in the same revenue taluk, within two years from the date of such reference, may of their own motion and shall on receipt of a requisition in writing signed by not less than fifty voters, publish in the prescribed manner an order to the effect that the temple shall be open to persons belonging to excluded classes.

Effect of order under sections 3 (2), 4 (3) or 6.

7. Where an order has been published under sub-section (2) of section 3, or sub-section (3) of section 4, or section 6, it shall be lawful, notwithstanding any custom or usage to the contrary, for any person belonging to excluded classes to enter the temple concerned and participate in worship therein.

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Fresh proceedings not to be taken in certain cases.

8. Where on a reference made to the voters under sub-section (1) of section 3 or sub-section (2) of section 4, the result is found to be against throwing the temple open to persons belonging to excluded classes, no further proceedings shall be taken either under sub-section (1) of section 3 or under sub-section (1) of section 4 for a period of two years from the date of such reference in respect of such temple or any other temple in the same revenue taluk.

Rules.

9. (1) The Provincial Government may make rules for the purposes of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power the Provincial Government may make rules—

(*a*) with reference to all matters allowed to be prescribed by this Act;

(*b*) as to the form and presentation of the requisitions and objections referred to in sub-section (1) of section 3, section 4 and section 6;

(*c*) as to the publication of orders and notices by trustees;

(*d*) as to the method by which the opinion of the voters shall be ascertained;

(*e*) as to the preparation and publication of lists of voters, and the decision of all disputes which may arise in connexion therewith; and

(*f*) as to the decision of all disputes which may arise in respect of requisitions and objections from voters under sections 3, 4 and 6 or in respect of references to voters under sections 3 and 4 and the ascertainment and publication of the results of such references.

(3) All rules made under this section shall be published in the official gazette and on such publication shall have effect as if enacted in this Act.

Power to remove difficulties.

10. If any difficulty arises in giving effect to the provisions of this Act the Provincial Government, as occasion requires, may order the doing of anything necessary for the purpose of removing the difficulty.

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11. (1) If any question arises as to whether a place is or is not a temple as defined in this Act the question shall be referred for the decision of the Provincial Government and their decision shall be final. Power to decide disputes.

(2) The Provincial Government shall have power to exempt from the provisions of this Act such institutions as, in their opinion, are in the nature of family temples and may be exempted without prejudice to the objects of this Act.

12. In section 40 of the Madras Hindu Religious Endowments Act, 1926, the words and figures "Subject to the provisions of the Malabar Temple Entry Act, 1938," shall be inserted at the commencement. Amendment of section 40, Madras Act II of 1927.

Madras Act II of 1927.

APPENDIX VII.

[Vide item VII at page 160 supra.]

Rules under sub-section (2) of section 74-A of the Madras Local Boards Act, 1920.

MADRAS LOCAL FUND ASSISTANT ENGINEERS SERVICE.

1. In these rules, unless there is anything repugnant in the subject or context—

(1) a person is said to be "appointed to the Service" when in accordance with these rules he discharges for the first time the duties of a post borne on the cadre of the Service or commences the probation prescribed for members thereof;

(2) "approved probationer" means a member of the Service who has satisfactorily completed, or is deemed under sub-rule (7) or sub-rule (8) of rule 7 satisfactorily to have completed his period of probation and awaits appointment as a full member of the Service;

(3) "cadre" means the sanctioned strength of the Service;

(4) "discharge of a probationer" from the Service during the period of his probation means reverting him to the post previously held by him or on which he has a lien or if he was not holding any such post, dispensing with his services;